

REMARKS

I. CLAIM STATUS AND AMENDMENTS

Claims 19-40 are pending and subject to restriction.

Claims 22-24 are amended to be directed to a canine CD20 protein encoded by the DNA of SEQ ID NO: 3 and/or homologous sequences thereto. It should be noted that SEQ ID NO: 3 encodes the same protein of SEQ ID NO: 1 of Group I. Support can be found in the claims as filed. No new matter has been added.

II. RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In response to the Restriction Requirement on page 2 of the Office Action, Applicants hereby elect, with traverse, the invention of Group I, claims 19-21 (and amended claims 22-24), drawn to a canine CD20 protein. It is respectfully requested that amended claims 22-24 should be included in Group I and examined with the elected invention of Group I. It is again noted that SEQ ID NO: 3 encodes the same protein of SEQ ID NO: 1.

The grounds for traverse are that the outstanding Office Action fails to satisfy the requirements of PCT Rules 13.1 and 13.2.

PCT Rule § 13.1 states that an "International application shall relate to one invention only or a group of inventions so as to form a single general inventive concept". PCT Rule § 13.2 stipulates that when a group of inventions is claimed in one and the same International application, the

requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean "those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." Accordingly, PCT Rules 13.1 and 13.2 are art-based.

In an effort to satisfy this requirement, the Office Action points to the International Search report form 409/IPER as allegedly providing evidence that claims 19, 21 and 22 are anticipated and/or obvious over the prior art cited therein.

Applicants disagree and note the Office has failed to identify with particularity a teaching of a specific protein (as identified by SEQ ID NO.) in the documents listed on the form 409/IPER that anticipates or renders obvious the canine CD20 protein of SEQ ID NO: 1 of claim 19 or the DNA of SEQ ID NO: 3 of amended claim 22. Therefore, it is believed that the Office has failed to satisfy its burden for establishing anticipation and/or obviousness and thus a lack of unity.

Applicants also believe that the subject matter of at least Groups I and II, and perhaps Groups II and III, are sufficiently related and contain overlapping subject matter so that it would not require an undue burden on the Examiner's part to search and examine all of the claims in their full scope. In

this regard, the nucleic acids of Group II encode the proteins of Group I. Also, Group III relates to using the nucleic acid of Group II. Accordingly, Applicants believe that Groups I, II, and III are sufficiently related. Again, the nucleic acids of Group II encode for the protein of Group I.

Thus, in view of the above, Applicants respectfully request a search and examination of all the claims in their full scope. At the very least, Applicants respectfully request the examination of Groups I and II.

In the event that the Office disagrees with the traversal and maintains the requirement, kindly consider the possibility of rejoinder of the non-elected invention upon a determination of allowance of elected invention, in accordance with U.S. practice, if applicable.

III. CONCLUSION

Favorable action on the merits is solicited in view of the foregoing amendments and remarks.

If the Office has any suggestions to expedite prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Jay F. Williams/
Jay F. Williams, Reg. No. 48,036
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JFW/lk